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Attorneys for Kendrick Oil Company.

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:	§	
	§	CASE NO. 14-30699-hdh11
BUFFET PARTNERS, L.P., et. al.	§	
	§	CHAPTER 11
Debtors.	§	
	§	(Jointly Administered)
	§	

**APPLICATION OF KENDRICK OIL COMPANY FOR ALLOWANCE AND
IMMEDIATE PAYMENT OF ADMINISTRATIVE CLAIM
PURSUANT TO 11 U.S.C. § 503(b)(9)**

NO HEARING WILL BE CONDUCTED HEREON UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT THE EARLE CABELL FEDERAL BUILDING, 1100 COMMERCE ST., RM 1254, DALLAS, TEXAS 75242 WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SERVICE HEREOF.

ANY RESPONSE MUST BE IN WRITING AND FILED WITH THE CLERK, AND A COPY MUST BE SERVED UPON COUNSEL FOR THE MOVING PARTY PRIOR TO THE DATE AND TIME SET FORTH HEREIN. IF A RESPONSE IS FILED, A HEARING WILL BE HELD WITH NOTICE ONLY TO THE OBJECTING PARTY.

IF NO HEARING ON SUCH NOTICE OR MOTION IS TIMELY REQUESTED, THE RELIEF REQUESTED SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT, OR THE NOTICED ACTION MAY BE TAKEN.

TO THE HONORABLE ROBERT L. JONES, UNITED STATES BANKRUPTCY JUDGE:

COMES NOW Kendrick Oil Company (the "Claimant"), by and through counsel, and in support of its Application for Allowance of Administration Claim pursuant to 11 U.S.C. § 503(b)(9), states as follows:

BACKGROUND

1. On February 4, 2014 (the “Petition Date”), Debtor commenced a voluntary case under Chapter 11 of the Title 11 of the United States Code (the “Bankruptcy Code”).

2. Claimant entered into an Agreement with Debtor whereby Claimant agreed to sell fuel to the Debtor for use in the Debtor’s business operations (“Goods”).

3. In the ordinary course of business, Debtor would obtain Goods from Creditor for use by the Debtor in its business.

4. Prior to the Petition Date, Claimant provided Goods to Debtor, in the ordinary course of Debtor’s business. As of the petition date, Claimant was owed \$25,551.15 for Goods delivered to Debtor. True and correct copies of the credit agreement, and invoices are attached hereto and incorporated herein as Exhibit “A”.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The venue of the Debtor’s Chapter 11 case and this Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

CLAIMANT’S ADMINISTRATIVE EXPENSE CLAIM

6. As of the Petition Date, the Debtor owed Claimant \$25,551.15 for pre-petition deliveries of Goods.

7. 11 U.S.C. § 503(b)(9) was enacted as part of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (“BAPCPA”) to provide an administrative priority for the value of goods received by the Debtor in the 20-day period preceding bankruptcy.

8. In the twenty (20) days preceding the Petition Date (the “503(b)(9) Period”), Claimant sold to the Debtor \$25,551.15 in Goods in the ordinary course of business (the “503(b)(9) Goods”) and the Debtor purchased and received the 503(b)(9) Goods in the ordinary course of its business. Debtor received the 503(b)(9) Goods the same day such Goods were sold by Claimant and purchased by Debtor.

9. Claimant is entitled to an administrative expense priority in the total amount of \$25,551.15 for the value of the goods that were received by the Debtor within twenty (20) days before the Petition Date (the “Administrative Expense Claim”).

10. The Administrative Expense Claim is not subject to any setoff or counterclaim.

11. The Claimant is entitled to immediate payment of this Administrative Expense Claim.

12. Absent a showing of substantial doubt that there will be sufficient funds available to pay all administrative claimants, this Court may compel the Debtor to make immediate payment on the Claimant’s Administrative Expense Claim. *In re: Four Star Pizza, Inc.*, 135 B.R. 498, 499 (Bankr. W.D. Pa. 1992). The time of the administrative expense payment rests with the discretion of the Bankruptcy Court. *In re: Isis Foods, Inc.*, 27 B.R. 156, 157-58 (W.D. Mo. 1982).

13. There is no evidence that the payment of the Administrative Expense Claim would unduly prejudice the Debtor or other creditors in this case. Claimant should not be required to endure hardship by waiting for payment, and risk the potential dissipation of estate funds by the Debtor’s estate.

14. Claimant’s assertion of its rights herein is without prejudice as to other rights and remedies as a creditor and a party in interest in Debtor’s bankruptcy proceeding, including but

not limited to its right to assert other claims and remedies as it relates to the transactions between the Claimant and the Debtor.

RELIEF REQUESTED

15. By this Application, Claimant requests that the Court enter an order allowing its Administrative Claim in this case for the full value of the Goods delivered and received during the 503(b)(9) Period as permitted by 11 U.S.C. § 503(b)(9).

NO PRIOR REQUEST

16. No prior motion or application for the relief requested herein has been made to this or any other Court by Claimant.

WHEREFORE, Kendrick Oil Company requests that the Court enter an order allowing the 503(b)(9) Administrative Expense Claim for the full value of the Goods delivered by Claimant to the Debtor during the 503(b)(9) Period and directing payment of Claimant's Administrative Expense Claim in the amount of \$25,551.15. Claimant requests such other relief as is just and proper.

DATED THIS 18th day of February 2014.

Respectfully submitted,

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/s/ John Massouh

John Massouh

Attorneys for Kendrick Oil Company

CERTIFICATE OF SERVICE

I hereby certify that on **February 18, 2014** a true and correct copy of the above and foregoing was served electronically or mailed in the United States mail, postage prepaid, to the following:

Debtor:

Buffet Partners, L.P.
2701 E. Plano Parkway, Suite 200
Plano, TX 75074

Debtor's Attorney:

John E. Mitchell
Baker & McKenzie LLP
2001 Ross Ave., Suite 2300
Dallas, TX 75201

U.S. Trustee:

Office of the United States Trustee
1100 Commerce St., Rm. 976
Dallas, Texas 75242-1496

and to all parties requesting notice.

/s/ John Massouh

John Massouh

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